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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,510

05/24/2006

Lothar Volkl

06038

6279

23338 7590 06/23/2008  
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EXAMINER

BASHAW, HEIDI M

ART UNIT

PAPER NUMBER

3732

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,510	<b>Applicant(s)</b> VOLKL ET AL.	
	<b>Examiner</b> HEIDI M. BASHAW	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on February 27, 2008. These drawings are acceptable.

### ***Claim Objections***

2. Claim 14 is objected to because of the following informalities: It is believed that "splitting the base plate with duplicate mounted thereon to obtaining model sections which comprise the duplicate sections" is in error for -- splitting the base plate with the duplicate mounted thereon to obtain model sections which comprise the duplicate sections--. Appropriate correction is required.
3. Claim 22 is objected to because of the following informalities: It is believed that "the duplicate is spaced on all sides from edge of the base plate" is in error for -- the duplicate is spaced on all sides from an edge of the base plate. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guiot et al. 6,287,121 (Guiot) in view of Burger 4,767,330.

6. Re claim 13, Guiot teaches a process for determining the form of a duplicate of a residual tooth area which is to be fitted with a dental restoration, in which duplicate sections to be fitted with the restoration and/or duplicate sections determining their design are removed from the duplicate and form data to be allocated to the forms of the sections is determined and stored in a computer, by means of which the form of the restoration is calculated taking into consideration the spatial allocation of the duplicate sections and further comprising individually referencing the duplicate sections as to spatial allocation to each other in a referencing stored in the computer (col. 3, ll. 34-43, 61-65). As to claims 14 and 17, Guiot further teaches the duplicate is split apart for obtaining the duplicate sections (col. 3, ll. 23-35), and the duplicate sections are measured taking into consideration references (col. 3, ll. 61-65). As to claims 15-16, Guiot teaches the duplicate is directly provided with references, the references being characteristics of the teeth and are produced when making the casting (col. 2, ll. 51-53), the references being specific characteristics of the teeth and matching the data which correspond to the references of the individual model sections with the references data stored in the computer (col. 3, ll. 61-65) and fabrication of the dental restoration under consideration of the form data and the data gained by matching (col. 5, ll. 46-47). Guiot does not teach referencing the duplicate sections independent of the duplicate, the process of making the casting, using the markings, which are lines formed on the side of the base plate as references, grinding the underside of the duplicate, attaching the base plate such that the duplicate is spaced on all sides from an edge of the base plate and using the texture of the base plate as references. Burger teaches referencing the

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duplicate sections independent of the duplicate (col. 5, ll. 45-50). Burger further teaches taking a casting of at least one of the residual tooth areas comprising parts of the jaw, fabricating the duplicate by filling the casting with plaster, mounting the duplicate on a base plate having references thereon, splitting the base plate with duplicate mounted thereon to obtain model sections which comprise the duplicate sections as illustrated in fig. 1 (col. 1, ll. 15-16, col. 4, ll. 16-23). As to claims 18-20, Burger further teaches using the markings, which are lines formed on the edges of the sections as illustrated in fig. 1, of the base plate as references (col. 5, ll. 45-50). As to claim 21, Burger teaches the process comprising surface grinding the duplicate underside and attaching the underside to a planar surface of the base plate following a tooth arc (col. 4, ll. 16-20). Burger teaches the duplicate is attached to the base plate in such a way that the duplicate is spaced on all sides from the edge of the base plate, a longitudinal wall running along the duplicate, a texture such as a wave-shaped or zigzag geometry as illustrated in fig. 1 and using the intersections of the wave-shaped or zigzag geometry are as references (col. 5, ll. 45-50). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Guiot in view of Burger in order to facilitate position on the segments relative to the base plate as taught by Burger (col. 3, ll. 30-33).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 13-25 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant argues on page 10, lines 17-19 that the references do not disclose or suggest a method in which duplicate sections are referenced in a manner which is independent of the duplicate; however, Burger teaches in column 4, lines 45-50 that the sections are combined again to form a complete tooth arrangement model with the aid of the base plate. Therefore the reference does disclose the duplicate sections references in a manner which is independent of the duplicate.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEIDI M. BASHAW whose telephone number is (571)270-3081. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Heidi Bashaw**  
**Examiner**  
**Art Unit 3732**

**/John J Wilson/**  
**Primary Examiner**  
**Art Unit 3732**

HMB